

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

IN RE:

Case No.8:18-bk-07194-RCT  
Chapter 7

WILLIE J DINKS  
AKA WILLIE JAMES DINKS AND  
PEARLY M. DINKS  
AKA PEARLY MAE DINKS,

Debtors.

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**CITIMORTGAGE, INC.'S  
MOTION FOR RELIEF FROM AUTOMATIC STAY  
[Re: 1801 E Ohio St, Plant City, Florida 33563]**

**NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING**

**Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within 21 days from the date set forth on the attached proof of service, plus an additional three days for service if any party was served by U.S. Mail.**

**If you object to the relief requested in this paper, you must file a response with the Clerk of the Court at 801 N. Florida Avenue, Suite 555, Tampa, FL 33602-3899, and serve a copy on the movant's attorney, Wanda D. Murray, at Aldridge | Pite LLP, Fifteen Piedmont Center, 3575 Piedmont Road, N.E., Suite 500, Atlanta, GA 30305 and any other appropriate persons within the time allowed. If you file and serve a response within the time permitted, the Court will either schedule and notify you of a hearing, or consider the response and grant or deny the relief requested without a hearing.**

**If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.**

CitiMortgage, Inc. ("Movant"), by and through undersigned counsel, files this Motion for Relief from the Automatic Stay, and in support states as follows:

1. The Court has jurisdiction over this matter pursuant to 11 U.S.C. §362, Rule 4001(a) of the Federal Rules of Bankruptcy Procedure, and the various other applicable

provisions of the United States Bankruptcy Code, Federal Rules of Bankruptcy Procedure, and the laws of the United States of America.

2. On August 27, 2018, Debtors filed a voluntary petition for relief pursuant to Chapter 7 of the United States Bankruptcy Code.

3. Movant holds a security interest in Debtors' real property located at 1801 E Ohio St, Plant City, Florida 33563 (the "Property"), by virtue of a Mortgage which is recorded in the Public Records of Hillsborough County, Florida in Book 15930 at Page 0825-0840. Said Mortgage secures a Note in the amount of \$103,828.78. True and correct copies of the relevant loan documents are attached as **Composite Exhibit A**.

4. The aforementioned Mortgage gives Movant a 1<sup>st</sup> mortgage position on the Property legally described as:

**ALL THAT CERTAIN PARCEL OF LAND IN , HILLSBOROUGH COUNTY, STATE OF FL, AS MORE FULLY DESCRIBED IN OR BOOK 09946 PAGE 0363 ID# 203982.0000, BEING KNOWN AND DESIGNATED AS LOT 59 MARSHAL TERRACE SUBDIVISION RECORDED: 09/22/1959, FILED IN PLAT BOOK 36 AT PAGE 10.**

**BEING THE SAME PROPERTY CONVEYED TO WILLIE J. DINKS AND REBECCA DINKS HUSBAND AND WIFE FROM FEDERAL NATIONAL MORTGAGE ASSOCIATION BY DEED DATED 06/04/1990, RECORDED 06/07/1990 IN OR BOOK 5999, PAGE 259 BY FEE SIMPLE INTEREST THE SAID REBECCA LONG F/K/A REBECCA DINKS HAVING CONVEYED HER INTEREST TO THE SAID WILLIE JAMES DINKS BY QUIT CLAIM DEED, DATED 11/12/1999 RECORDED ON 12/03/1999 IN OR BOOK 09946, PAGE 0363 IN HILLSBOROUGH COUNTY RECORDS, STATE OF FLORIDA.**

5. The Property has been claimed exempt by Debtors. Additionally, the Property has not been abandoned by the Trustee.

6. As of October 2, 2018, Debtors are indebted to Movant in the amount of \$73,142.83 principal balance, plus other fees and costs advanced by the mortgagee pursuant to the loan documents.

7. As of October 2, 2018, payments pursuant to the Mortgage have been in default and remain in default since August 1, 2018.

8. Furthermore, according to the Hillsborough County Property Appraiser, the estimated value of the Property is \$57,045.00. See Hillsborough County Property Appraisal attached as **Exhibit B**. Thus, there is little to no equity in the Property for the benefit of unsecured creditors of the estate

9. Movant's security interest in the Property is being significantly jeopardized by Debtors' failure to make regular payments under the subject loan documents while Movant is prohibited from pursuing lawful remedies to protect such security interest.

10. Movant respectfully requests that the Court grant it relief from the automatic stay in this case pursuant to 11 U.S.C. §362(d)(1), for cause, namely the lack of adequate protection to Movant for its security interest in the Property. The value of the Property is insufficient in and of itself to provide adequate protection to Movant, which the Bankruptcy Code requires to be provided.

11. Movant further requests that the Court Order entered pursuant to the instant Motion provide that all communications sent by Movant in connection with proceeding against the Property including, but not limited to, notices required by state law and communications to offer and provide information with regard to a potential Forbearance Agreement, Loan Modification, Refinance Agreement, Loss Mitigation Agreement, or other Loan Workout, be sent directly to Debtors.

12. Pursuant to 11 U.S.C. §362(e), Movant hereby requests that in the event a hearing is necessary, that said hearing be held within thirty (30) days.

13. Movant respectfully requests that the Court waive the fourteen (14) day stay of the Order Granting Relief pursuant to Rule 4001(a)(3) of the Federal Rules of Bankruptcy Procedure, so that Movant can pursue its in rem remedies without further delay.

**WHEREFORE**, Movant respectfully requests that the automatic stay be lifted so that Movant may be permitted to protect its security interest in the Property outside of the bankruptcy forum, that in the event that a hearing is necessary on this Motion that it be held within thirty (30) days, that the Court waive the fourteen (14) day stay and for such further relief as the Court may deem just and proper.

Respectfully Submitted:



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Wanda D. Murray  
Bar No.: 566381  
Aldridge Pite, LLP  
Attorney for Movant  
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Road, N.E., Suite 500 Atlanta, GA 30305  
Phone: (404) 994-7400  
Fax: (619) 590-1385  
Email: WMurray@aldridgepite.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion for Relief from the Automatic Stay was served electronically or via U.S. Mail, first-class postage prepaid, to:

**DEBTORS ATTORNEY**  
**(via electronic notice)**

Jordan M Finley  
Florida Law Advisers, P.A.  
2202 North Westshore Boulevard  
Suite 200  
Tampa, FL 33607  
jordan@floridalegaladvice.com

**DEBTORS**

Willie J Dinks  
Pearly M. Dinks  
1801 E Ohio St  
Plant City, FL 33563-6023

**TRUSTEE**  
**(via electronic notice)**

Carolyn R. Chaney  
PO Box 530248  
St. Petersburg, FL 33747  
carolyn.chaney@earthlink.net

**UNITED STATES TRUSTEE**  
**(via electronic notice)**

Department of Justice  
Middle District of Florida - Tampa Division  
United States Trustee - TPA7/13, 7  
Timberlake Annex, Suite 1200  
501 E Polk Street  
Tampa, FL 33602  
USTPRegion21.TP.ECF@USDOJ.GOV

Dated: October 29, 2018

*/s/ Wanda D. Murray*

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